**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF NEW MEXICO**

GUIDANCE ENDODONTICS, LLC,

      Plaintiff,

vs.                                        No. CIV 08-1101 JB/RLP

DENTSPLY INTERNATIONAL, INC.,
a Delaware Business Corporation, and
TULSA DENTAL PRODUCTS, LLC,
a Delaware Limited Liability Company,

      Defendants.

and

DENTSPLY INTERNATIONAL, INC.
and TULSA DENTAL PRODUCTS, LLC,

      Counter Plaintiffs,

vs.

GUIDANCE ENDODONTICS, LLC
and DR. CHARLES GOODIS,

      Counter Defendant.

**MEMORANDUM OPINION AND ORDER**

**THIS MATTER** comes before the Court on the Plaintiff's Objections to Defendants'

Proposed Voir Dire Questions [Doc. 307], filed September 9, 2009 (Doc. 309).  The Court held a

hearing on September 18, 2009.  The primary issue is whether the Court should sustain Plaintiff and

Counterclaimant Guidance Endodontics, LLC's objections to questions numbered 8, 9, and 10 of

the Defendants' Proposed Voir Dire Questions, filed September 9, 2009 (Doc. 307).  Because the

Court believes that the questions seek information that is reasonably related to the Defendants'

determination whether to make for-cause challenges and whether to exercise peremptory challenges, the Court will overrule the objections.

## ANALYSIS

### 1.    Question No. 8.

Question No. 8 states: "Does the fact that a party has more attorneys representing it in court mean anything to the way you think you should consider this case or the parties' attitude towards this case?"  A mismatch of resources in the courtroom is something that trial lawyers constantly worry about, and, from interviewing jurors after trial, the Court has noted that jurors notice what side has what.  The Court believes this question reasonably seeks information which may be relevant to the Defendants' determination whether to make for-cause challenges and whether to exercise peremptory challenges.  Accordingly, the Court will overrule the objection to Question No. 8.
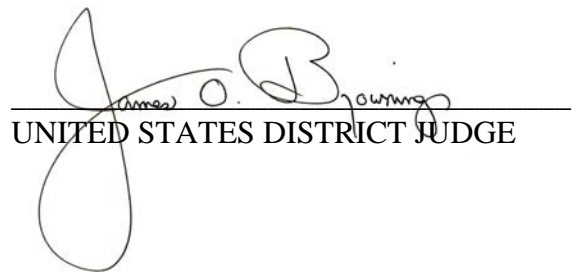
### 2.    Question No. 9.

Question No. 9 asks: "Two of the parties in this case have hired attorneys from New York City, while the other two parties' attorneys are only from New Mexico.  Does this mean anything to the way you think you should consider the attorneys' arguments in this case or the parties' attitude towards this case?" Lawyers litigating in distant locations often hire local counsel to avoid parochial attitudes, and local lawyers often worry about the perception the jury may have of New York law firms, i.e., that the jury may consider them to have more expertise.  While these concerns may or may not be valid with an Albuquerque jury, they are not uncommon concerns, and the appearance of justice is important in seating a jury.  Accordingly, the Court will overrule the objection to Question No. 9.

### 3.    Question No. 10.

Question No. 10 provides: "One of the attorneys arguing before you (Rebecca Avitia) is

pregnant.  This will likely become increasingly obvious as the case progresses.  Do any of you think

you will feel uncomfortable because of this?"  While the attitudes of society toward working

pregnant women may be changing to the point the sight is largely taken for granted and common

place, there are lingering attitudes about working women, and in the past, discrimination toward

pregnant women.  Because the prospective jury spans a large range of ages and cultural

backgrounds, the question seeks to root out possible biases and prejudices that are of genuine

concern.  The Court will overrule Question No. 10.

**IT IS ORDERED** that the Plaintiff's Objections to Defendants' Proposed Voir Dire

Questions [Doc. 307] is overruled.

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UNITED STATES DISTRICT JUDGE

*Counsel:*

Kyle C. Bisceglie
Renee M. Zaytsev
Olshan Grundman Frome Rosenzweig
  & Wolosky, LLP
New York, New York

-- and --

John J. Kelly
Donald A. DeCandia
Ryan Flynn
Modrall, Sperling, Roehl, Harris
  & Sisk, P.A.
Albuquerque, New Mexico

    *Attorneys for the Plaintiff and Counterdefendants*

Brian M. Addison
  Vice President, Secretary, and General Counsel
Dentsply International, Inc.
York, Pennsylvania

-- and --

Thomas P. Gulley
Rebecca Avitia
Lewis and Roca LLP
Albuquerque, New Mexico

*Attorneys for the Defendants and Counterplaintiffs*